

PURPOSE

To establish the procedures for individuals to submit complaints regarding the Michigan Department of Health and Human Services (MDHHS) privacy policies and the failure to comply with such policies by the MDHHS's personnel.

PROCEDURE**Complaints Received Directly from the Individual**

When a complaint is received against a MDHHS employee, each of the Bureau of Legal Affairs, Office of Human Resources, and the MDHHS Facility's Human Resources (if applicable) are to receive copies of the complaint. Complaints will be processed locally, (for example, each facility will handle complaints against the facility), however, a copy of the complaint and documentation of the disposition of the complaint will be provided to the MDHHS privacy office. The complaint, and documentation of the disposition of the complaint must be maintained for 6 years.

Complaints Received from the DHHS, Office of Civil Rights

The MDHHS privacy office will be the point of contact concerning all complaints made against MDHHS or its facilities that are received from the Office of Civil Rights. The privacy officer of the implicated facility will investigate the complaint and report to the MDHHS privacy office. The Office of Human Resources will receive a copy of the complaint and documentation of the disposition of the complaint.

Individual or Personal Representative

An individual or personal representative submits a complaint in writing to the MDHHS privacy office (Central or Facility) or Office of Civil Rights, specifying how the individual's privacy rights have been violated. Form DCH 1230(E), HIPAA privacy Complaint, may be used for complaints made directly to MDHHS.

MDHHS privacy office and Facility privacy office

The MDHHS privacy office and facility privacy office will:

- Notify Office of Human Resources if a specific employee has been accused. Affected personnel may be informed of the complaint and pending investigation. If complaint is made to a

facility privacy office, the facility privacy office will notify and keep central office informed of action taken.

- Respond to complainant within 5 days that the incident is being investigated.
- Advise the complainant that they will be informed as to the outcome of the investigation.

If the complaint was received from and affected a MDHHS health program recipient, the information will be entered into the Beneficiary Provider Contact Tracking System (BPCT) or facility database.

If the complaint was not received from the affected individual, the incident must be recorded on the BPCT, or related facility if the affected person is a MDHHS health program recipient. The affected individuals should be informed in order that they can take actions to protect themselves from identity theft.

The Incident Response Team consists of:

- Privacy officer.
- Security officer.
- Human resources representative.
- Manager of department involved.
- Legal assistance if needed.

Within 5 working days of receipt of the complaint, a HIPAA privacy investigation into the specific complaint will be initiated which includes the following:

- Interview managers and staff.
- Visit the scene of the incident.
- Talk to everyone involved.
- Take immediate action to limit scope of incident.
- Retrieve copies of files before they are lost.
- Determine corrective actions and needs.

Corrective Action Plan

Within thirty working days of contact a written report will be prepared to document the details of the HIPPA privacy Investigation and the findings which will include:

- Summary of incident.

- Cause of incident.
- Procedural changes required.
- Training changes required.
- Staff involved and sanctions applied.
- If BA, notification of covered entity-obtain assurance that corrective actions are taken; if not, terminate contract or report to OCR.
- Specific corrective actions implemented.

Within thirty working days after completing the written report, appropriate personnel will be notified of the action taken.

For valid complaints, ensure that the appropriate disciplinary action and training are applied per HIPPA privacy policy; see Sanctions Policy and Procedure.

REFERENCES

45 CFR §164.306, §164.310, §164.312, §164.504, §164.520, §164.524, §164.526, §164.530, Form DCH 1230

CONTACT

For additional information concerning this procedure, contact the MDHHS Bureau of Legal Affairs.